

NSC/OTSP MEETING NOTES

FAA NOTICE OF PROPOSED RULE MAKING (NPRM): LAUNCH RANGE SAFETY

MEETING WITH INDUSTRY 18 DEC 2002, 1500-1700

- NSC and OSTP: Dr. William Jeffrey, Acting Assistant Director for Space and Aeronautics, OSTP; Mr. Gil Klinger, NSC; Mr. Brett Alexander, OSTP.
- FAA/AST: Ms. Patti Grace-Smith; Mr. Michael Dook; Mr. Dave Berkey, on contract to FAA/AST for Economic Evaluation.
- Telecon: Maj Gen Howard "Mitch" Mitchell, AFSPC/DO; Maj Gen (sel) Bob Kehler, SAF/USI.
- Industry: Boeing, Mr. Jeffrey Trauberman and Mr. Robert Bocek; Lockheed-Martin, Mr. Gerald Musarra, Ms. Elaine David, and Mr. Christopher Meyers; Orbital, Christopher DeMars and Mr. Ed Morris.
- AF Staff: Col Stan Mushaw, SAF/USIX; Lt Col Blaise Kordell, AF/XOSR; Mr. Jay Finch, SAF/USIX.
- Mr. Jeffrey opened the meeting by noting that anytime there is a cost difference factor of "a thousand" between government and industry, there is clearly a need to meet and resolve the issue. He stated that this meeting was intended only to solicit inputs from industry. We would not discuss govt options or negotiate solutions.
- Gen Kehler commented that the AF is dedicated to common launch range safety standards between govt and industry.
- Ms. Smith:
 - We need common regulations and mutually understood expectations.
 - This process started with the FAA's NPRM. Industry's response to the original NRPM was not favorable. The FAA took into account industry's concern and issued a Supplemental NPRM (SNPRM).
 - FAA convened a public meeting for a section-by-section review of the SNPRM. Unfortunately, industry comments were directed to the NPRM and did not take into account the changes FAA had made in the SNPRM.
- Mr. Klinger: We want to build on the strength of the USG-industry partnership. This wide cost disagreement on an issue [safety] where both sectors have historically been philosophically aligned points to the need for a mutually satisfactory solution.

- Ms. Smith: What specific language does industry find objectionable from the standpoint of cost, harm, potential impact, divergence from existing standards, etc.?
- Lockheed-Martin:
 - Each company should speak for itself. The SNPRM impacts different sectors of the launch market differently.
 - First, we are concerned about the change in the state of the launch industry. Space launch systems are operating at a loss already.
 - Second, at issue are only small variations in EELV launches at CCAFS. (EELV launches from CCAFS represent the bulk of all US launch activity.) We don't need two regimes for oversight of the same system at the same facility. We are really only talking about changes in the payloads.
 - We still have concerns with the SNPRM, despite the changes made from the original NPRM.
- Ms. Smith: If you could pick the Top 3 areas that would cause industry to do something different as a result of the SNPRM, what would they be?
- Mr. Alexander: And what two oversight "regimes" are you referring to?
- Lockheed-Martin: AF and FAA.
- Ms. Smith: But the content of the AF Manual 91-710 and FAA rules will be the same. We will have common safety standards.
- Lockheed-Martin: We understand, but the issue is one of implementation. How do we implement the AF and FAA rules? We welcome the FAA representative at Cape Canaveral -- that helps allay the fears associated with a distant bureaucratic process.
 - Mr. Jeffrey: Are you saying the FAA presence at the Cape position mitigates your issues?
- Lockheed Martin: Not completely. Working to satisfy two organizations with two documents will require more work. However, we are pleased with the on-site FAA presence that should help.
- Colonel Mushaw: How do you perceive the differences in implementing the AF and FAA rules? How do the AF and FAA rules impact your business practices at the Cape?
- Orbital: They're different types of documents. FAA rules state a conditional acceptance of AF rules. For example, the AF can "grandfather" its rules, the FAA doesn't. FAA rules state they "could be" compliant with AF "grandfathering".
- Michael Dook, FAA/AST: We built the FAA rules together with the AF rules.

- Ms. Smith: There may be some ambiguity in the language that we plan to address.
- Boeing: “Grandfathering” is not specified in range safety requirements. Will the FAA accept AF certification and “grandfathering”?
- Michael Dook, FAA/AST: Our intention was to set up a process to mirror the AF process.
 - Orbital: But the AF and FAA process timelines are not the same.
- Mr. Klinger: Let me summarize up to this point. Differences in language between the AF and FAA rules leads to uncertainty for industry, and “uncertainty” means cost. If the uncertainty is large, the cost is large.
- Lockheed-Martin: The bulk of our concern is with implementation. We are not agreed that the AF and FAA rules are the same. They are two separate agencies, one is an owner and operator [AF] and the other is a regulatory agency [FAA]. There is an issue of how literally the same requirements can be implemented. AF requirements are stated more as goals that can be potentially met in a variety of ways. FAA rules have less flexibility.
- Ms. Smith: Neither the AF or FAA can waive each other’s rules. We are agreed that there can’t be any new delays in the waiver process. The FAA rules are only intended to represent another set of eyes.
- Lockheed-Martin: But when the AF grants a waiver it takes into account mission assurance, performance, cost, etc. The FAA, however, cannot waive public safety. The AF and FAA waiver criteria differ.
- Orbital: For example, the FAA said they would not have conducted two launches that the AF approved.
- Mr. Klinger: This should not be a White House issue. This strikes me as a cultural issue. Industry is accustomed to the AF way of doing business. There is a comfort level with AF norms and culture whereas you’re not familiar with the FAA culture. Am I missing the point?
- Lockheed Martin (Elaine David): Yes. We are most familiar with the FAA regulatory scheme. There are those of us who have been around these issues for a very long time. It’s the process of how the NPRM was crafted that is problematic for us. Our issue is that industry was not consulted during this process on how things are currently done on the range or how they would be done after the NPRM.
- Mr. Jeffrey: Are there industry inputs that we don’t have?
- Lockheed-Martin: Yes. We need a FACA compliant dialogue between industry, FAA and the AF to work the issues.

- Mr. Klinger (to the FAA): Where are we in the SNPRM process?
- Ms. Smith: We're in the comment review cycle, per the A.P.A. guidelines. It is the Alaska launch site that has created the need for this issue of safety oversight processes at non-federal ranges.
- Mr. Jeffrey: We need to ensure one-to-one correspondence between the AF and FAA rules to resolve points of ambiguity between the regulations.
- Mr. Alexander: I would like a 1-2 page summary of the concerns from each company.
- Ms. Smith: Where have we not captured the process clearly enough? What specific language is different from AF regulations and therefore a cost driver for industry?
- Lockheed-Martin: Our concern is implementation, even if the requirements are identical.
- Mr. Klinger: I don't want a congressional issue on space launch as soon as we obtain the President's signature on the new National Security Policy Directive for Space Transportation. I would like to hear closing remarks from each of the companies.
- Boeing: We ask that you pay attention to the state of industry today. This process was initiated in a different environment and now the space launch industry now is in extreme crisis. That's the reality of the market.
- Lockheed-Martin: We endorse the Boeing view. There is an existing launch safety process in place at the ranges. There is no increase in launch volume. There is no urgent factor driving the NPRM timelines.
- Orbital: Combining federal range and non-federal ranges for the purposes of FAA regulations adds complexity to the process. Two issues: 1) The FAA NPRM does not represent an increase in safety. It's just a transfer of ownership. 2) The FAA doesn't always accept the AF process.
- Mr. Jeffery: We can all agree that the commercial launch industry is vital to the country, and that all parties share the same goal: a safe and healthy industry.

MEETING WITH INDUSTRY ADJOURNED AT 1630 EST.